

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

MANNI MUHAMMAD RAHMAN,	)	CASE NO. 1:15 CV 233
	)	
Plaintiff,	)	JUDGE CHRISTOPHER A. BOYKO
	)	
v.	)	MAGISTRATE JUDGE
	)	WILLIAM H. BAUGHMAN, JR.
GRAFTON CORRECTIONAL	)	
INSTITUTION, <i>et al.</i> ,	)	
	)	
Defendant.	)	<b><u>REPORT &amp; RECOMMENDATION</u></b>

Before me by referral<sup>1</sup> in this *pro se* action by inmate Manni Muhammad Rahman alleging claims of religious discrimination arising under 42 U.S.C. § 1983 against three corrections officers at the Grafton Correctional Institution in Grafton, Ohio<sup>2</sup> is a motion by the remaining defendants to dismiss the action under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief may be granted.<sup>3</sup> Rahman has not responded to this motion within the time provided by my Order.<sup>4</sup>

The present motion is asserted on identical grounds to that employed by the Court when it dismissed claims against certain defendants for failure to state a claim but held

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<sup>1</sup>ECF # 8.

<sup>2</sup>ECF # # 1, 3.

<sup>3</sup>ECF # 12.

<sup>4</sup>ECF # 13.

that claims against the remaining defendants, liberally read, "allege[] plausible civil rights claims under § 1983" against these defendants.<sup>5</sup>

By not presenting the current motion as one for summary judgment under Rule 56, and then supporting such a motion with suitable Rule 56 evidence, the defendants have merely asked this Court to reconsider its prior determination that the complaint itself, liberally read, does allege plausible claims for relief. In such a posture, and without any basis to warrant a reconsideration or evidence that would support a finding that these defendants are entitled to summary judgment as a matter of law, I recommend that the present motion be denied without prejudice to this Court's consideration of any potential future motion for summary judgment.

Dated: February 25, 2016

s/William H. Baughman, Jr.  
United States Magistrate Judge

### **Objections**

Any objections to this Report and Recommendation must be filed with the Clerk of Courts within fourteen (14) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the District Court's order.<sup>6</sup>

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<sup>5</sup>ECF # 6 at 4.

<sup>6</sup> See *Thomas v. Arn*, 474 U.S. 140 (1985); see, *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).